

Message Text

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ACTION STR-04

INFO OCT-01 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01 CIAE-00

COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07 INT-05 L-03

LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00 OMB-01

OIC-02 AF-08 ARA-06 EA-07 EUR-12 NEA-10 /133 W

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P 111726Z FEB 77

FM USDEL MTN GENEVA

TO SECSTATE WASHDC PRIORITY 2238

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ACTION STR

H PASS CODEL

E.O. 11652: N/A

TAGS: ETRD; MTN

SUBJECT: INPUT CABLE: GOVERNMENT PROCUREMENT SUBGROUP MEETING,
MARCH 3-4, 1977

REF: (A) MTN GENEVA 891; (B) USEC BRUSSELS 1314

1. THE OBJECTIVE OF THE MARCH 3-4 GOVERNMENT PROCUREMENT SUBGROUP MEETING SHOULD BE TO PRESENT THE US POSITION ON VARIOUS ELEMENTS OF THE GOVERNMENT PROCUREMENT NEGOTIATIONS, TO ADVANCE USE OF THE OECD DRAFT CODE AS A NEGOTIATING DOCUMENT, AND TO EXPOSE NON-OECD MEMBERS TO THE SUBTLETIES OF THE CODE AND THE ADVANTAGES OF THE US POSITIONS.

2. TO ACCOMPLISH THESE OBJECTIVES, THE US AND OTHER OECD MEMBERS MUST GO THROUGH AN EDUCATIONAL PROCESS WITH NON-OECD MEMBERS TO ESTABLISH A COMMON FOUNDATION
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FOR SUBSTANTIVE NEGOTIATIONS. FROM THE US POINT OF VIEW, THIS EDUCATIONAL PROCESS CAN BE ACCOMPLISHED BY

1) PRESENTATION OF THE US POSITION ON THE BASIC ELEMENTS OF GOVERNMENT PROCUREMENT SET FORTH IN MTN/NTM/W/74, AND 2) EXPLANATION OF HOW THESE VIEWS ARE REFLECTED IN THE OECD DRAFT CODE (MTN/NTM/W/81). THIS APPROACH WOULD BE CONSISTENT WITH THE AGENDA FOR

THIS MEETING (REF A) AND PROVIDE A CONVENIENT VEHICLE FOR EXPOSING OTHER DELEGATIONS TO THE US POSITION.

3. SPECIFICALLY, THE US SHOULD INDICATE THAT THIS POTENTIAL AREA OF TRADE IS NOW EXCLUDED FROM THE GATT BUT IS TOO IMPORTANT (AN OECD MARKET ALONE OF OVER \$20 BILLION) TO NOT BE COVERED BY SOME INTERNATIONALLY AGREED RULES OF CONDUCT. THE BASIC US OBJECTIVE, THEREFORE, IS TO ALLOW INTERNATIONAL COMPETITION TO PREVAIL IN GOVERNMENT PROCUREMENT. IN THE US VIEW, THIS OBJECTIVE CAN BEST BE BROUGHT ABOUT THROUGH AGREEMENT ON NON-DISCRIMINATION AND NATIONAL TREATMENT, AND CAN BEST BE ASSURED BY FULL TRANSPARENCY IN PROCUREMENT WITH AN ADEQUATE MEANS OF SURVEILLANCE AND ENFORCEMENT.

4. THE US SHOULD THEN POINT OUT THAT THE CURRENT SITUATION IN GOVERNMENT PROCUREMENT IS CHARACTERIZED BY TWO APPROACHES: 1) OPEN PROCUREMENT BUT WITH PREFERENCE MARGINS FOR DOMESTIC SUPPLIERS SUCH AS IN THE UNITED STATES, AND 2) THE MORE PREVALENT METHOD OF DISCRIMINATION BY CLOSED ADMINISTRATION OF GOVERNMENT PROCUREMENT LIMITED TO PRODUCTS FROM DOMESTIC SOURCES. A SOLUTION TO THE PROBLEM OF GOVERNMENT PROCUREMENT WOULD NECESSARILY HAVE TO ADDRESS BOTH OF THESE SYSTEMS. WE SHOULD EXPLAIN THAT IN OUR VIEW A STRAIGHT PERCENTAGE PREFERENCE IS CONSIDERABLY MORE LIBERAL (I.E. LIKE A TARIFF) THAN THE PRACTICES BY THE MAJORITY OF THE COUNTRIES IN THE WORLD WHICH, IN EFFECT, AMOUNT TO AN ADMINISTRATIVE EMBARGO.
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5. HAVING LAID OUT THIS BASIC GROUNDSWORK, THE UNITED STATES SHOULD OUTLINE ITS POSITION, AS DEVELOPED OVER THE YEARS IN THE OECD EXERCISE, ON SUCH ISSUES AS ENTITIES, THRESHOLD, TRANSPARENCY, EXCEPTIONS, DEROGATIONS AND PRODUCT COVERAGE. THIS DISCUSSION CAN BE KEYED TO THE SECRETARIAT'S DOCUMENT MTN/NTM/W/74.

6. AT THE CONCLUSION OF THE DISCUSSION OF PRINCIPLES, THE GROUP WILL THEN TURN TO THE OECD DRAFT INSTRUMENT. THE US SHOULD ATTEMPT, IN CONCERT WITH OTHER OECD COUNTRIES, TO ADVANCE THE OECD DRAFT CODE AS THE NEGOTIATING INSTRUMENT. WE SHOULD, HOWEVER, ONLY DO THIS IF WE ARE ASSURED THE SUPPORT OF AT LEAST THE EC AND THE NORDICS. IF THIS SUPPORT IS FORTHCOMING, WE SHOULD POINT OUT THE MANY YEARS OF WORK IN DEVELOPING WHAT IS A SOLID FOUNDATION FOR SUBSTANTIVE NEGOTIATIONS. WITHOUT UTILIZING SUCH A FOUNDATION, THERE IS LITTLE PROSPECT FOR SUCCESS IN THIS AREA WITHIN THE MTN TIME FRAME. WE

MAY ALSO WISH TO POINT OUT, PRIVATELY AND INFORMALLY, THAT IF THE DRAFT CODE IS NOT UTILIZED WE WOULD CONSIDER REVERTING BACK TO THE OECD FOR NEGOTIATIONS ON GOVERNMENT PROCUREMENT.

7. THE US SHOULD THEN EXPLAIN HOW ITS VIEWS ON THE PRINCIPLES OF THE US POSITION ARE REFLECTED IN THE OECD DRAFT CODE. THIS SHOULD INVOLVE A PRESENTATION OF THOSE PORTIONS OF THE US POSITION THAT WERE REFLECTED IN THE DRAFT CODE, BUT REMOVED BEFORE TRANSMISSION TO THE GATT.

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INFO OCT-01 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01 CIAE-00
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8. WHEN THE ISSUE IS RAISED, THE US SHOULD MAKE A PRESENTATION INTRODUCING ITS GENERAL POSITION ON SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES IN THE FIELD OF GOVERNMENT PROCUREMENT. WE SUGGEST THAT THE PRESENTATION INDICATE THAT WE HAVE AN OPEN MIND ON THE QUESTION OF S&D IN THIS AREA AND INDICATE OUR WILLINGNESS TO HEAR IDEAS FROM THE DEVELOPING COUNTRIES. WE SHOULD POINT OUT, HOWEVER, THAT UNTIL A FRAMEWORK FOR AGREEMENT, SUCH AS THE OECD CODE, IS AGREED UPON, WE WOULD FIND IT DIFFICULT TO UNDERTAKE ANY SUBSTANTIVE DISCUSSION ON S&D PROVISIONS.

9. IN DISCUSSIONS WITH THE EC (REF B), AUSTRALIA, MEXICO AND INDIA, WE HAVE FOUND A GENERAL RECEPTIVITY TO THE APPROACH OUTLINED ABOVE. THE CANADIANS INFORMALLY HAVE INDICATED THAT THEY WILL SUPPORT THE ABOVE PROCEDURAL OUTLINE, BUT HAVE NOT INDICATED WHETHER THEY WILL SUPPORT USE OF THE OECD CODE FOR NEGOTIATING LIMITED OFFICIAL USE

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PURPOSES. THESE DELEGATIONS HAVE NOT, HOWEVER, RECEIVED FINAL INSTRUCTIONS FOR THIS MEETING. WE WILL CONDUCT FURTHER DISCUSSIONS WITH THESE AND OTHER DELEGATIONS AS WE APPROACH THE SCHEDULED MEETING. IN THESE FIRST DISCUSSIONS, WE WERE PARTICULARLY HEARTENED THAT BOTH THE MEXICAN AND INDIAN DELEGATIONS HAD APPARENTLY DONE CONSIDERABLE WORK ON THE SUBJECT OF GOVERNMENT PROCUREMENT AND WERE GENERALLY FAMILIAR WITH THE OECD CODE. IF OTHER DELEGATIONS FROM THE DEVELOPING COUNTRIES ARE EQUALLY WELL PREPARED, WE WOULD ANTICIPATE A USEFUL FIRST MEETING OF THE GOVERNMENT PROCUREMENT SUBGROUP. CULBERT

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